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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,820	12/02/2003	Bunichi Inagi	071671-0173	2732
23428 7590 08/20/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
LE, KAREN L				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/724,820

**Applicant(s)**

INAGI ET AL.

**Examiner**

KAREN L. LE

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's arguments in the After Final response dated 7/07/2008 were convincing. The previous Final office action dated 4/17/2008 is withdrawn. This is Final office action.

***Claim Rejections - 35 USC § 112***

2. Claims 1-12 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

Claims 1-6 provide for the use of providing communication services including internet connection by permitting access to a predetermined access point in a limitative area via wireless LAN or local wireless interface, but, since the claims do not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

The claims 7-12 are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinstein et al (US 2002/0191572) in view of Fatehi et al. (US 7,139,270).

Regarding claims 1, 7, 13 and 14, Weinstein teaches a wireless network service provision method of providing communication services including internet connection by permitting access to a predetermined access point in a limitative area via wireless LAN or local wireless interface, wherein: When a user subscribed to the communication service system accesses-the predetermined access point, payload processing is executed (Paragraph 0006, 0008, 0009, 0014 and 0017). Weinstein does not teach using a processing method unique to each user, and each user is discriminated based

on data of the processed parts such that none of the users is capable of intercepting payload data of any of other users currently accessing the predetermined access point, due to differences in payload processing techniques respectively utilized by the payload processing methods respectively provided for each user. However Fatechi teaches processing the different traffic types within the payload section, e.g., to facilitate routing of different traffic to different user nodes after being received at the destination network node serving those destination user nodes and equipment. Payload section carries the heterogeneous payload comprising information formatted according to one or more protocols (see Fatechi, Col. 7, lines 44-Col. 8, lines 1-3 and Col. 15, lines 47-65). Fatechi further teaches transporting information in a communication network having interconnected network nodes and one or more user nodes coupled to network nodes, wherein the payload section carries a plurality of separate transmissions, each transmission formatted according to one of many different protocols (see Col. 21, lines 1-67). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the payload feature in packets from wireless end points of Fatechi into Weinstein's system in order to prevent the current users from intercepting payload data of any of other current or new users. A system that using a processing method unique to each user is old and well known in wireless LAN.

Regarding claims 2 and 8, Weinstein further teaches a plurality of payload processing methods capable of being used in the limitative area are prepared, and a processing method peculiar to each user is selectively adopted (Paragraph 0043, and 0098).

Regarding claims 3 and 9, Weinstein further teaches one of a plurality of preliminarily prepared processing methods is randomly selected for the payload processing (Paragraph 0043 and 0098).

Regarding claims 4 and 10, Weinstein further teaches the communication services are provided via a VLAN, to which a plurality of sub-networks are connected via a communication line (Paragraph 0040, 0041 and 0044).

Regarding claims 5 and 11, Weinstein further teaches the communication services are provided in an area, which covers hot spot communication services of providing internet connection and contents services in a predetermined place ((Paragraph 0042).

Regarding claims 6 and 12, Weinstein further teaches the communication services are provided by using data communication based on portal switch VLAN (Paragraph 0040).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen L. Le whose telephone number is 571-272-7487. The examiner can normally be reached on Mon and Thurs: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent

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Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Karen L Le/  
Examiner, Art Unit 2614

August 16, 2008

/Ahmad F MATAR/  
Supervisory Patent Examiner, Art Unit 2614